

SHIVA STEIN and KEVIN McCARTY,)	
Derivatively on Behalf of RCI HOSPITALITY)	
HOLDINGS, INC.,)	Civil Action No.
)	
Plaintiffs,)	
)	
vs.)	
)	
NOUR-DEAN ANAKAR, YURA)	
BARABASH, STEVEN L. JENKINS, ERIC)	
LANGAN, LUKE LIROT, PHILLIP K.)	
MARSHALL, ELAINE J. MARTIN, ALLAN)	
PRIAULX, and TRAVIS REESE,)	
)	
Defendants,)	
)	
– and –)	
)	
RCI HOSPITALITY HOLDINGS, INC, a)	
Texas corporation,)	
)	
)	
Nominal Defendant)	
)	

Plaintiffs Shiva Stein and Kevin McCarty (together, “Plaintiffs”) request leave to file their Verified Shareholder Derivative Complaint (the “Complaint”) in this action under seal. In support of this motion, Plaintiffs state as follows:

1. This is a verified shareholder action brought by Plaintiffs on behalf of nominal defendant RCI Hospitality Holdings, Inc. (“RCI” or the “Company”), against certain officers and directors for breach of fiduciary duty.

2. RCI provided Plaintiffs with certain internal corporate documents pursuant to Plaintiffs' agreement to treat such documents as confidential. Plaintiffs asked RCI's counsel for a confidentiality agreement regarding the document production, but one was never sent to Plaintiffs. Nevertheless, Plaintiffs used information contained within the internal documents in their Complaint and Plaintiffs seek permission from the Court to file the Complaint under seal until such a time as RCI and the named defendants enter appearances and weigh in on the matter.

3. The Fifth Circuit has recognized that the right of access to judicial proceedings and records "is not absolute." *S.E.C. v. Van Waeyenberghe*, 990 F.2d 845, 848 (5th Cir. 1993) (citing *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 598 (1978)). Rather, courts may deny access to judicial records, for example, where they "incorporate confidential business information." *N. Cypress Med. Ctr. Operating Co. v. Cigna Healthcare*, 781 F.3d 182, 204 (5th Cir. 2015) (citing *Nixon*, 435 U.S. at 598). *See also Barry v. Medtronic, Inc.*, 2016 WL 11743535, at *2 (E.D. Tex. July 18, 2016) (sealing documents that "contain confidential business information for which the parties' interest in non-disclosure outweighs the public's common-law right of access to judicial filings"). Based on RCI's representation that its production contains confidential information, the Court should permit Plaintiffs to file their Complaint under seal.

WHEREFORE, Plaintiffs respectfully request leave to file their Complaint under seal. Plaintiffs will then promptly provide RCI with the Complaint so RCI may review it for any information that it believes is nonpublic, confidential, proprietary, or commercially sensitive. RCI can then file a redacted, public version of the Complaint and/or a motion to continue to seal the Complaint in its entirety.

Dated: January 21, 2022

Respectfully submitted,

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